



## DEPARTMENT OF STATE

[Public Notice: 11983]

### **60-Day Notice of Proposed Information Collection: Two (2) Passport Services**

#### **Information Collections: Application for Consular Report of Birth Abroad of a Citizen of the United States of America and Affidavit of Physical Presence or Residence, Parentage, and Support**

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the information collections described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on these collections from all interested individuals and organizations. The purpose of this Notice is to allow 60 days for public comment.

**DATES:** The Department will accept comments from the public up to [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments by any of the following methods:

- Web: Persons with access to the Internet may comment on this notice by going to [www.Regulations.gov](https://www.Regulations.gov). You can search for the document by entering “Docket Number: DOS-2023-0002 in the Search field. Then click the “Comment Now” button and complete the comment form. Email and regular mail options have been suspended to centralize receiving and addressing all comments in a timely manner.
- E-mail: [Passport-Form-Comments@State.gov](mailto:Passport-Form-Comments@State.gov)

You must include the DS form number (if applicable), information collection title, and the OMB control number in the email subject line.

**SUPPLEMENTARY INFORMATION:**

Title of Information Collection: Application for Consular Report of Birth Abroad of a Citizen of the United States of America

OMB Control Number: 1405-0011

Type of Request: Revision of a Currently Approved Collection

Originating Office: Bureau of Consular Affairs, Passport Services (CA/PPT)

Form Number: DS-2029

Respondents: United States Citizens and Nationals

Estimated Number of Respondents: 85,170

Estimated Number of Responses: 85,170

Average Time Per Response: 60 minutes

Total Estimated Burden Time: 85,170 hours

Frequency: On occasion

Obligation to Respond: Voluntary

Title of Information Collection: Affidavit of Physical Presence or Residence, Parentage, and Support

OMB Control Number: 1405-0187

Type of Request: Revision of a Currently Approved Collection

Originating Office: Bureau of Consular Affairs, Passport Services (CA/PPT)

Form Number: DS-5507

Respondents: Individuals and Organizations

Estimated Number of Respondents: 45,869

Estimated Number of Responses: 45,869

Average Time Per Response: 30 minutes

Total Estimated Time Burden: 22,935 hours

Frequency: On occasion

Obligation to Respond: Required to Obtain or Retain a Benefit

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used
- Enhance the quality, utility, and clarity of the information to be collected
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology

Please note that comments submitted in response to this Notice are public record.

Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

**Abstract of Proposed Collection**

- *1405-0011, DS-2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America:* The form is used to apply for a Consular Report of Birth Abroad of a U.S. citizen. The information collected on this form will be used to certify the acquisition of U.S. citizenship at birth of a person born abroad. 8 U.S.C. 1104 and 22 CFR 50.5 through 50.7 are among the important legal authorities pertaining to the Department's use of this form.
- *1405-0187, DS-5507, Affidavit of Physical Presence or Residence, Parentage, and Support:* The form is used to determine whether a U.S. national parent has met the statutory physical presence or residence requirements to transmit U.S. nationality to their child born abroad or in a United States territory for

U.S. noncitizen nationality; to establish parentage of the child; and to fulfill the requirements of 8 U.S.C. 1409(a), which permits acknowledgment of paternity under oath and requires the U.S. citizen father's written agreement to provide financial support for a child born abroad out of wedlock to a U.S. citizen father.

The DS-2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America, has been amended based on changes in Department policy. The Department's new gender policy permits passport applicants to select the gender marker on their passport without presenting medical documentation of gender transition. This policy change includes updating forms to add a third gender marker "X" for applicants identifying as non-binary, intersex, and/or gender non-conforming (in addition to the existing "M" and "F" gender markers).

Both the DS-2029 and the DS-5507 have been amended to replace the term "sex" with "gender" and to be pronoun-inclusive of all genders.

Both forms have been amended to reflect the Department's updated interpretation of Section 301 of the Immigration and Nationality Act (INA). Under the updated interpretation, INA Section 301 applies to children born abroad to parents who are married to each other at the time of the child's birth, when the child has a genetic or gestational connection to at least one of the parents in the marriage, and one of the parents in the marriage is a U.S. citizen. This updated interpretation accommodates modern families and the growing use of Assisted Reproductive Technology (ART) and surrogacy. The Department's previous interpretation of the INA required a child born abroad to a U.S. citizen parent and a foreign national parent to have a genetic or gestational tie to the U.S. citizen parent to acquire U.S. citizenship at birth (if all other statutory transmission requirements are met). The Department had considered births

abroad where one of the parents did not have a genetic or gestational tie to the child as “out of wedlock,” even if the parents were married, and adjudicated such claims under INA Section 309. The Department will now adjudicate citizenship claims under the “in wedlock” provisions of INA Section 301 when the parents are married at the time of the child’s birth and at least one parent has a genetic or gestational tie to the child. Under the updated interpretation, the child may have a genetic or gestational tie to either parent in a legal marriage - if one of those parents is a U.S. citizen and all other statutory transmission requirements have been met - to acquire U.S. citizenship at birth. A child born abroad in this circumstance is now considered to be born “in wedlock” for the purposes of INA Section 301.

Finally, the DS-5507 instructions regarding periods of physical presence or residence in the United States or abroad have been amended to decrease the burden on the public by clarifying that the Department will accept just the Month and Year [or MM-YYYY format] for time frames if exact dates are unknown. However, the instructions also indicate that the individual may be asked to provide exact dates if necessary to determine that statutory transmission requirements have been met.

## **Methodology**

Parents normally submit an application for a Consular Report of Birth Abroad at a U.S. embassy or consulate in the consular district in which the birth occurred. A consular officer will interview the parent(s)/guardian, examine the application and supporting documentation, and enter the information provided into the Department of State American Citizen Services (ACS) electronic database.

Parent(s) may complete and submit the Affidavit of Physical Presence or Residence, Parentage, and Support in person or by mail. The form may be accessed online,

completed electronically, printed, and signed; or it may be downloaded, printed, and filled out manually.

The DS-2029 is also available in an online format (known as “eCRBA”). The eCRBA will allow applicants to enter their data, upload required documents, pay fees, and schedule an appointment to appear at the adjudicating post for an interview.

Additionally, the applicant will be able to check the status of their application. The eCRBA pilot launched in March 2019 at posts located in Toronto, Mexico City, Frankfurt, Paris, Tokyo, and Sydney. The Department continues to work on enhancements with an anticipated phased global rollout in 2023.

**Kevin E. Bryant,**

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